

REMARKSClaim Status

Claims 2, 4, 6, 12, 13, and 14 have been canceled herewith. Claims 1, 3, 5, 7, 8-11 and 15-22 are now in the case.

The Abstract has been amended, as noted above.

Claim 1 has been amended to recite the following absorbent materials: silica; alumina; silicates; natural and synthetic aluminosilicates; and mixtures thereof. Claim 1 has also been amended to delete "amines" and now recites the following dopants: fatty acids and their derivatives; amines; ammonia and their salts; alcohols; aldehydes; ketones; heterocompounds containing at least one nitrogen, sulfur or oxygen and combinations thereof. The basis for this change is found in the original Claim 1, original Claim 2 and original Claim 4.

Claim 5 has been amended to refer to correct minor punctuation errors and clarify that the salts and esters are alkali and alkaline metal salts and their esters. The basis for this change is found in the specification.

Claim 7 has been amended to refer to correct minor punctuation errors and clarify that the boiling point recited is at atmospheric pressure. The basis for this change is found in the specification on the first full paragraph of page 4.

Claim 11 has been amended to recite the following materials: silica; alumina; silicates; natural and synthetic aluminosilicates; and mixtures thereof. Claim 11 has also been amended to recite the following dopants: fatty acids and their derivatives; amines; ammonia and their salts; alcohols; aldehydes; ketones; heterocompounds containing at least one nitrogen, sulfur or oxygen and combinations thereof. The basis for this change is found in the original Claim 11, original Claim 2 and original Claim 4.

Claims 15, 16, 17, 18, 19, 20, 21, and 22 have been added and recite an absorbent article containing at least one odor controlling material. The basis for these additional claims can be found on the first paragraph in page one in the specification and in original Claims 3, 5, 6, 7, 8, 9, 10 and 12 respectively.

Attached herewith are pages marked “ Versions with Markings to Show Changes Made” to show the changes made in the Abstract and in the Claims.

### **Rejection Under 35 U.S.C. § 112**

The Examiner has rejected Claims 1-14 (now claims 1, 3, 5, 7, and 8-11) under 35 USC § 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which applicant regard as the invention. The claims as amended herewith fully meet the rejections, as demonstrated by the following.

With respect to the Abstract in the specification, the Abstract as amended no longer reads like a claim. As amended, the Abstract is in narrative form limited to a single paragraph within the range of 50-250 words conforming to MPEP § 608.01(b) as cited by the Examiner. Therefore, rejections to the Abstract have been resolved by this amendment.

With respect to Claim 1, the claim as amended does not contain the phrase “gaseous or liquid compounds.” Therefore, the Examiner’s rejections asserted with regard to the indefiniteness of what the gaseous or liquid compounds comprise and their antecedent basis are overcome by this amendment.

With respect to Claims 1-13, the claims as amended do not contain the phrase “having similar functionalities.” Therefore, the Examiner’s rejections to the asserted lack of clarity of that phrase should be withdrawn.

With respect to Claims 5, the claim as amended clarify that the “salts and esters thereof” recited in the claims are alkali and alkaline metal salts and their esters.

With respect to Claim 7; the claim has been amended to clarify that the boiling points recited are measured at atmospheric pressure.

With respect to Claims 13 and 14, these claims have been cancelled. Therefore, Applicants respectfully request that all objections be withdrawn.

Consideration of the newly submitted Claims 1, 3, 5, 7, and 8-10 and withdrawal of the rejection to the claims under 35 U.S.C. § 112 is therefore respectfully requested.

#### **Rejections under 35 U.S.C. § 102**

Claims 1-9, and 13-14 (now Claims 1, 3, 5, 7, and 8) have been rejected under 35 U.S.C. § 102(b) as being anticipated by Rieck, et al., (U.S. Patent No. 4,806,327).

Applicants respectfully traverse the rejection(s) on this basis.

The Office Action states that Rieck, et al. '327 discloses the use of an alkali metal silicate that can be used as fabric softener, which the examiner considers an odor absorbing material. In fact, Rieck, et al. '327 discloses a fabric softener comprised of an alkali metal silicate laden with organic amines. (See Rieck, et al. '327 column 6, lines 60-63) Contrary to the Examiner's position, however, Rieck, et al. '327 does not anticipate amended Claim 1 because it does not teach an absorbent article with odor controlling material recited in amended Claim 1.

The controlling case law regarding anticipation under 35 U.S.C. § 102, as summarized in MPEP § 2131. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference" *Verdegaal Bros. V. Union Oil Co. of California*, 814 F. 2d. 628, 631, 2 USPQ 2d 1051, 1053

(Fed. Cir. 1989). “The identical invention must be shown in as complete detail as is contained in the...claim” *Richardson v. Suzuki Motor Co.*, 868 F. 2d 1226, 1236 9 USPQ 2d 1913, 1920 (Fed. Cir 1989).

Rieck, et al. ‘327 does not teach each and every element of Applicant’s amended Claim 1. The compound and process disclosed in Rieck, et al. ‘327 does not teach and disclose to one skilled in the art, the combination of odor controlling material with one or more dopants. Rieck, et al. ‘327 merely discloses one possible combination in making an odor controlling material, which is aluminosilicate with an amine dopant. As amended, Claim 1 includes several other kinds of dopants (e.g. ammonia) that have not been taught by Rieck, et al. ‘327. Further, Rieck, et al. ‘327 does not teach the alumina and silica combined with the dopant choices in amended Claim 1. Therefore, Rieck, et al. ‘327 does not anticipate the teachings of Claim 1.

Moreover, with respect to amended Claim 11 and new Claims 15-22, Rieck, et al. ‘327 does not teach and disclose to one skilled in the art, the selecting and combining of various materials with a range of dopants including amines, in an absorbent article to increase the absorbent and odor reducing qualities of the absorbent article as in Claim 11. Rieck, et al. ‘327 does not teach every combination of material and dopants, therefore, it does not teach each and every element of Claim 1.

Because Rieck, et al. ‘327 fails to teach or disclose each and every element of Claim 1, Claim 1 cannot be anticipated. Claims 3, 5, 7, and 8-11 depend from Claim 1. Therefore, these claims are not anticipated by Rieck, et al. ‘327 for the same reasons given above with respect to Claim 1. The Examiner is respectfully requested to withdraw the rejections under 35 U.S.C. § 102.

Claims 1, 2, 4-7, and 13-14 (now Claims 1 and 5) have been rejected under 35 U.S.C. § 102(e) as being anticipated by Brunner, et al., (U.S. Patent No. 5,733,272).

Applicants respectfully traverse the rejection(s) on this basis.

It is respectfully submitted that the Examiner has misapprehended the teachings of Brunner, et al. '272. Brunner, et al. '272 discloses the use of odor controlling agent, zeolite, in combination with moisture activated encapsulated perfume and fluid-absorbing material that minimizes odor caused by body fluid and provides a pleasant scent to indicate that the odor was removed. The Examiner merely indicates that Brunner, et al. '272 and Applicants' use of similar compounds in an absorbent article, but this alone does not teach the Applicants' invention. The Examiner specifically cites Brunner, et al. '272's use of zeolite as an odor controlling agent (See Brunner, et al. '272, column 2, line 27, and column 7, line 30-40) and the perfume ingredients such as benzaldehyde and benzyl alcohol (See column 3 lines 30-40). However, the Examiner has failed to realize that, in Brunner, et al. '272, the perfume ingredients benzaldehyde and benzyl alcohol are encapsulated in a cyclodextrin or polysaccharide matrix to minimize the perfumes' interaction with the odor absorbing material before use of the product by the consumer. (See column 3 lines 22 –32). The encapsulated perfumes in Brunner, et al. '272 are moisture activated and are released when wetted. (See column 3 lines 29-31, column 2 lines 39-44). In fact, Brunner, et al. '272 specifically states that the encapsulated perfume does not add to or interfere with the efficiency of the odor controlling material. (See column 7 lines 50-53.)

In short, Brunner, et al. '272's encapsulation of the perfume ingredients leading to the lack of direct interaction with the absorbent material is the exact opposite of the Applicants' invention. The Applicants' present invention requires the direct combination of dopants with a material such as zeolite. In addition, this combination occurs before use of the product by

the consumer and there is no activation procedure for the combination. Unlike the perfume ingredients in Brunner, et al. '272, the dopants in the present invention increase the efficiency of the odor controlling material by increasing the absorbent qualities of the odor controlling material as a whole.

Because Brunner, et al. '272 fails to teach or disclose each and every element of Claim 1, it cannot be anticipated. Claims 5 and 7 depend from Claim 1. Therefore, these claims are not anticipated by Brunner, et al. '272 for the same reasons given above with respect to Claim 1. The Examiner is respectfully requested to withdraw the rejections under 35 U.S.C. § 102.

### SUMMARY

All of the relevant rejections in the Office Action have been discussed.

No new matter has been added by the Amendment.

In light of the discussions contained herein, Applicants respectfully request reconsideration of all rejections and allowance of all claims. Early and favorable action is respectfully requested.

Respectfully submitted,

By 

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